

Bulletin

NUMBER: M2014-1

TO: Freddie Mac Multifamily Sellers and Servicers

January 31, 2014

SUBJECTS

With this Bulletin for the Multifamily Seller/Service Guide (Guide), we are:

- Revising Chapter 30, Ground Lease Mortgages, to conform to revisions made to the Ground Lease Analysis form available on FreddieMac.com, eliminate references to the Multifamily Ground Lease Financial Analysis – Form 1145M, and incorporate new requirements for the length of the term and base rent for Ground Leases
- Revising certain provisions concerning the property condition report
 - Adding energy-related requirements to our description of code/regulatory compliance
 - Specifying that the property condition consultant must note readily observable deficiencies and/or violations of federal, State or local laws, ordinances or codes in the property condition report
- Making a change to lead-based paint issues resolution and documentation
- Adding provisions that Freddie Mac may require if it permits a foreign guarantor
- Making a clarification to our requirements for property management contracts
- Updating the Property Condition Form – Form 1105 and the Multifamily Environmental Assessment Form – Form 1103

Effective dates

All of the changes announced by this Bulletin are effective immediately.

Conclusion

More details on these changes are provided on the pages that follow. Guide text for the changes announced in this Bulletin is highlighted in green on AllRegs. If you have any questions about this Bulletin, please call your Freddie Mac representative.

Sincerely,

David Brickman
Senior Vice President
Multifamily

Ground Leases

We are revising Chapter 30, Ground Lease Mortgages, to eliminate the use of the Multifamily Ground Lease Financial Analysis – Form 1145M. Accordingly, the Ground Lease Analysis form, set forth on FreddieMac.com, is being revised to require the following information which had previously been recorded on the Form 1145M:

- A description of the specific terms of the ground lease (e.g., the base rent amount, additional rent, rent escalations, length of the Ground Lease term and any extension options, commercial space, if any, and tenant rights to purchase the fee estate)
- Confirmation that ground leases have market acceptability in the area in which the Property is located

Seller/Serviceicers should review the revised Chapter in its entirety and pay particular attention to the following:

- The required term of the ground lease, together with any renewal options (Section 30.2(a)(2))
- Provisions for base rent payable under the ground lease, which are now applicable to both subordinated and unsubordinated ground lease Mortgages (Section 30.2(b)(3))
- Requirements for the delivery of the Lessor's Estoppel Certificate (Section 30.4)

These changes can be found throughout Chapter 30 and in the ground lease documentation row of Section 55.2.

Repair Categories and the Property Condition Report

We are making the following changes with respect to the property condition report:

- We are expanding the definition of Priority Repairs noted on the property condition report to include repairs correcting violations of any federal, State or local law, ordinance or code relating to energy-related requirements
- We are specifying that the consultant, when completing the property condition report, must note readily observable deficiencies or violations of any federal, State or local laws, ordinances or codes that remain open for the Property, including violations related to zoning, subdivision and use, building and housing accessibility (including the Americans with Disabilities and Fair Housing Acts), health matters, fire safety or energy-related requirements
- We have added a requirement that the consultant must make appropriate inquiry through available resources to determine if any energy-related federal, State or local law, ordinance or code violations remain open for the Property
- Concerning the inspection of dwelling units and building interiors, we are specifying that
 - The interior inspection of commercial units must comprise the same elements as the inspection of dwelling units and building common areas: flooring materials, wallboard and ceiling coverings, fixtures, windows, doors, intercoms and other security devices, kitchen appliances and cabinets, bathroom fixtures and plumbing, fireplaces, washers/dryers or hookups, and fire/safety protection devices, etc.
 - The consultant must select the units to be inspected and ensure that all building types and unit types are reviewed

These changes can be found in Sections 14.3(b), 14.4 and 14.5(b).

Lead-based Paint (LBP)

We are revising our LBP provisions to specify that Freddie Mac will not require any LBP issues resolution from the Borrower if a “lead free” certificate has been issued by a qualified environmental professional in accordance with EPA, HUD or State requirements. The environmental consultant must review all supporting documentation, and must attach a copy of the “lead free” certificate, if any, to the environmental report.

These changes can be found in Sections 13.9(d) and (e).

Foreign Guarantors

We are adding to our requirements for foreign guarantors. If Freddie Mac approves a foreign guarantor, it will require the guarantor to appoint an agent in the United States (U.S.) for service of process on behalf of the guarantor. If there is no additional financially compliant U.S. guarantor, Freddie Mac may require the foreign guarantor to:

- For Mortgages greater than \$25 million, provide an additional non-consolidation opinion from the guarantor’s country of citizenship or residency
- For Mortgages greater than \$50 million, provide an opinion of counsel that covers
 - The validity and enforceability of the form of appointment of the process agent under the laws of the guarantor’s country of citizenship and/or residency, even if there were to be a change in the guarantor’s permanent residence status in the U.S.
 - The procedure for the collection and enforcement of any U.S. judgment obtained against the guarantor in the guarantor’s country of citizenship and/or residency

All opinions must be written in English and must be acceptable to Freddie Mac.

Freddie Mac may also require the guarantor to maintain a minimum liquidity in a U.S. bank account of five percent of the Mortgage’s original principal balance, or such other amount as Freddie Mac may require. Previously, Freddie Mac required a minimum liquidity of ten percent of the Mortgage’s original principal balance.

Please see Section 9.11 for the complete details of these requirements.

Property Management Contracts

We are revising our property management requirements to specify that, unless the property management contract has been assigned to the Mortgage lender and subordinated to the lien of the Mortgage, the property management contract must be terminable upon not more than 30 days' notice without the necessity of establishing cause and without payment of a penalty or termination fee by Borrower or its successors.

Section 8.13 has been revised to reflect this change.

Updates to the Property Condition Form and the Multifamily Environmental Assessment Form

We are making minor updates to Sections II and IV of the Property Condition Form for greater consistency and ease of use. We have also created linkages between the tabs of Sections II and IV for all rows labeled “other” so that a property condition consultant’s changes to a row in Section II will automatically populate the corresponding row in Section IV. We have also made a change to a field name on the Multifamily Environmental Assessment Form – Form 1103.

The updated Forms 1103 and 1105 are available on AllRegs and on FreddieMac.com on the Guide forms page.